

**ENVIRONMENTAL SERVICES
SPB05-894P-I**

1. PARTIES

THIS CONTRACT, is entered into by and between the State of Montana, Department of Administration, State Procurement Bureau, (hereinafter referred to as "the State"), whose address and phone number are Room 165 Mitchell Building, 125 North Roberts, PO Box 200135, Helena MT 59620-0135, (406) 444-2575 and **DJ&A, P.C.**, (hereinafter referred to as the "Contractor"), whose nine digit Federal ID Number, address and phone number are 81-0524186, 3203 Russell St., Missoula MT 59801, and (406) 721-4320.

THE PARTIES AGREE AS FOLLOWS:

2. PURPOSE

The purpose of this term contract is to establish a list of Environmental Service Providers in several service areas. All qualified offerors will be assembled into a multiple contractor term contract for use by state agencies and other public procurement units. The State makes no guarantee of use by any agency-authorized access to this term contract. However, through data conveyed by the Montana Department of Environmental Quality, Montana Department of Natural Resources and Conservation, and Montana Fish, Wildlife and Parks, it is anticipated that this term contract should access approximately 2.5 million dollars or more annually.

3. EFFECTIVE DATE, DURATION, AND RENEWAL

3.1 Contract Term. This contract shall take effect upon execution of all signatures, and terminate on June 30, 2007, unless terminated earlier in accordance with the terms of this contract. (Mont. Code Ann. § 18-4-313.)

3.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in one-year intervals, or any interval that is advantageous to the State, for a period not to exceed a total of four additional years. This renewal is dependent upon legislative appropriations.

3.3 Addition of Contractors or Services. Each renewal period will allow for current contractors to update qualifications and request inclusion in another service area. New firms will also be allowed the opportunity to submit their qualifications for addition to the term contract listing. Current term contract holders wishing to expand the services offered and new firms wishing to be included on the term contract listing must submit a new proposal to the State Procurement Bureau (SPB) for evaluation. Requests to be included in the term contract listing or for expansion of services must be submitted to SPB between April 1 and May 1, SPB will issue a determination of inclusion by June 1.

4. NON-EXCLUSIVE CONTRACT

The intent of this contract is to provide state agencies with an expedited means of procuring supplies and/or services. This contract is for the convenience of state agencies and is considered by the State Procurement Bureau to be a "Non-exclusive" use contract. Therefore, agencies may obtain this product/service from sources other than the contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. The State Procurement Bureau does not guarantee any usage.

5. COOPERATIVE PURCHASING

Under Montana law, public procurement units, as defined in section 18-4-401, MCA, have the option of cooperatively purchasing with the State of Montana. Public procurement units are defined as local or state public procurement units of this or any other state, including an agency of the United States, or a tribal procurement unit. Unless the bidder/offeror objects, in writing, to the State Procurement Bureau prior to the

award of this contract, the prices, terms, and conditions of this contract will be offered to these public procurement units.

6. TERM CONTRACT REPORTING

Term contract holder(s) shall furnish annual reports of term contract usage. Each report shall contain complete information on all public procurement units utilizing this term contract. Minimum information required to be included in usage reports: name of the agency or governmental entity who contacted you regarding a potential project; project title; agency contact person; if the project was not successfully negotiated, state the reason; number and title of contracts received; total dollar amounts for contracts received; the names of your company personnel involved in the project; and project status as of usage report date. The report for this term contract will be due on July 20th of each year.

Reported volumes and dollar totals may be checked by the State Procurement Bureau against State records for verification. Failure to provide timely or accurate reports is justification for cancellation of the contract and/or justification for removal from consideration for award of contracts by the State.

7. COST/PRICE ADJUSTMENTS

7.1 Cost Increase by Mutual Agreement. After the initial term of the contract, each renewal term may be subject to a cost increase by mutual agreement.

7.2 Differing Site Conditions. If, during the term of this contract, circumstances or conditions are materially different than set out in the specifications, the Contractor may be entitled to an equitable adjustment in the contract price. The Contractor shall immediately cease work and notify, in writing, the State of any such conditions necessitating an adjustment as soon as they are suspected and prior to the changed conditions affecting the performance of this contract. Any adjustment shall be agreed upon in writing by both parties to the contract.

7.3 Cost/Price Adjustment. All requests for cost/price adjustment must be submitted between April 1st and April 30th along with written justification. Requests received after April 30th will not be considered unless written approval from the SPB Contracts Officer is given to submit at a later date. In no event will cost/price adjustments be allowed beyond May 15th. All requests that are approved will be incorporated by contract amendment and made effective July 1st of the next approved renewal period.

8. SERVICES AND/OR SUPPLIES

8.1 Service Categories. Contractor agrees to provide to the State the following services:

Geographic Information Systems (GIS) Services. The State, and in particular DEQ, will need assessments that characterize a watershed and identify and quantify all probable sources of pollutants. GIS maps will be required for every waterbody that is assessed. Thematic maps may include, but are not limited to: land ownership, land use, topography, hydrology, soils, precipitation, and/or endangered species distribution. In addition, DEQ may request that GIS applications be used to facilitate the interpretation and analysis of digital images and/or other georeferenced data.

8.2 Reuse of Documents. When the projects dictate a design or engineered approach, the State agrees that it will not apply the Contractor's designs to any other projects.

9. ENGINEERING ACCESS

All of the firms selected may need to have access to engineering services depending on the nature of the project. The contractor(s) will be expected to use their own best judgment as to whether engineering services are needed for a given project. However, traditional engineering methodologies are not the emphasis of this RFP. It is a violation of State Statute to practice engineering or land surveying without a license.

10. PROJECT SELECTION

10.1 Project Identification. The State will be responsible for identifying projects, contacting landowners and securing necessary permission/cooperation agreements, selecting a contractor, writing grant applications and approving project payments.

10.2 Hazardous Materials. The State will not initiate projects where it is known that hazardous materials are present. If there is an indication of a potential of hazardous materials, then the State will do testing prior to contacting the contractor. However, there is always the possibility of unforeseen problems resulting in the stoppage of a project.

10.3 Meetings. The selected contractor may be required to meet with State personnel at the project site to conduct a site evaluation, discuss project issues and begin the negotiation process on project feasibility, conceptual design and costs for each project.

10.4 Approach Expectations. In the case of restoration activities, the agency will identify the preferred techniques. The determination made by the State may define which contractor(s) are contacted for project initiation. The State is always open to new and innovative approaches that accomplish project goals.

11. SELECTING A CONTRACTOR

The State will choose a contractor from the list of Environmental Service Providers on this term contract, taking into consideration such things as the contractor's area of expertise, requirements and location of the project, the contractor's availability and access to resources necessary to efficiently and effectively complete the project, demonstrated excellent past performance on State and public projects, identified subcontractors and cost.

The State has three options for awarding projects:

- Option 1 is to select a contractor from the list who is qualified to conduct the work and directly negotiate a mutually acceptable project;
- Option 2 is for the State to select multiple firms to provide a scope of work and questionnaire about the project. The contractors will respond back in limited form and possibly meet with the State to discuss or present project approaches at which time the State will make a selection based on information provided. This option is not a formal competition;
- Option 3 is to not use this list and put the project out to competitive bid following standard procurement procedures.

Contractor selection will be discussed among a panel of state or public personnel prior to initiating contact with a contractor. When the selected contractor is initially contacted, they will be told if project funding has been secured. If funding has not been secured the contractor will be given the option to decline participation and/or negotiation on the project without jeopardizing selection on future projects. If costs of a particular project are higher than anticipated but reasonable, the State will do what it can to secure the funding required.

The State will supply the chosen contractor a short description of project background, goals and objectives. The State and chosen contractor will then cooperatively develop project feasibility, conceptual design and cost. Project costs will be based on the published prices attached to the term contract. Planning costs may be reimbursed provided that a mutually acceptable project can be negotiated. The State reserves the right to cease negotiations with the chosen contractor if agreement cannot be reached on project approach and/or costs, and to begin negotiations with another contractor from the list. The State also reserves the right to cancel the project if funding cannot be secured. The State will keep complete written documentation of the negotiation process in the project file.

Agency project task orders will be utilized to finalize the project. Only written addenda will be used for adjustments of the task orders and must be signed by both parties. All task orders must contain signatures from both parties and appropriate agency legal review as directed in their procurement policy.

The State will monitor contractor selection by using the information provided in the annual term contract usage reports.

12. CONTRACTOR RESPONSIBILITIES

12.1 Supervision and Implementation. The selected contractor for an individual project will be responsible for the supervision and implementation of the approach and will be responsible for oversight of work performed by all subcontractors. In most cases the contractor will provide and be responsible for all the necessary equipment, materials, supplies and personnel necessary for proper execution of the work. However, the State reserves the right to hire subcontractors (equipment and/or labor) if it will provide a cost savings to the State. The selected contractor will also be responsible for clean up of the sites if necessary and must have the sites inspected by the State immediately prior to completion.

12.2 On-Site Requirements. When a contractor is contacted by the State to discuss a project, the State and the contractor may visit the job site if deemed necessary by the Project Manager, to become familiar with conditions relating to the project and the labor requirements. The State will provide a detailed scope of work for the project and request the contractor supply the State with a response to project approach, cost, timeframe and any other information deemed necessary by the State to make a selection or complete a contract negotiation.

In the cases of Restoration or On-The-Ground Activities, the contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. They shall be responsible for all damages or injury due to their action or neglect.

The contractor shall maintain access to all phases of the contract pending inspection by the State, the landowner, or their representative. All interim or final products funded by the contract will become the property of the State or Cooperative Purchaser upon payment for said products.

All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance. The contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the expense of the contractor.

12.3 Clean Up (when project tasks require). The contractor shall:

- Keep the premises free from debris and accumulation of waste;
- Clean up any oil or fuel spills;
- Keep machinery clean and free of weeds;
- Remove all construction equipment, tools and excess materials; and
- Perform finishing site preparation to limit the spread of noxious weeds before final payment by the State.

12.4 Applicable Laws. The contractor shall keep informed of, and shall comply with all applicable laws, ordinances, rules, regulations and orders of the City, County, State, Federal or public bodies having jurisdiction affecting any work to be done to provide the services required. The contractor shall provide all necessary safeguards for safety and protection, as set forth by the United States Department of Labor, Occupational Safety and Health Administration.

12.5 Cooperation. The contractor shall work closely with the States analytical consultants, (i.e. environmental laboratories and taxonomists) to develop the desired products.

12.6 Work Acceptance. The contractor is responsible for project oversight as needed. The State may also periodically provide personnel for administrative oversight from the initiation of the contract through project completion. All work will be inspected by the State or designated liaison prior to approval of any contract payments. All work rejected as unsatisfactory shall be corrected prior to final inspection and acceptance. Contractor shall respond within seven calendar days after notice of defects has been given by the State and proceed to immediately remedy all defects.

12.7 Records. The contractor will supply the State with documentation, when requested, of methods used throughout project implementation. Contractor will maintain records for themselves and all subcontractors of supplies, materials, equipment and labor hours expended.

12.8 Communication. Remoteness of project sites may necessitate that the contractor have some form of field communication such as a cellular phone. This communication is necessary to enable the State to respond to public concerns related to the project, accidents, inspections, or other project issues that require immediate feedback. In addition, the State or Cooperative Purchaser may require scheduled communication at agreed upon intervals. The communication schedule will be dependent upon the project circumstances and requirements of the contracting agency. In the case when a communication schedule is included in the Scope of Work, the schedule will commence when the contractor initiates the project.

12.9 Change Of Staffing. Since qualifications of personnel is key in determining which offerors will be selected to be on this term contract list, a written notification to the State Procurement Bureau of any changes of key personnel must be made within two weeks of the change. These change notifications will be completed upon the departure or hiring of key personnel who are professional employees critical to awarded service areas. If these staffing changes cause the firm to no longer meet the qualifications stated herein, that firm will be removed from the service area of this term contract. Failure to notify the State Procurement Bureau of staffing changes could result in the contractor being removed from the term contract listing and possible suspension from bidding on other State projects.

12.10 Collaboration. The State encourages collaboration between contractors to increase the scope of services offered. In cases where the chosen contractor is not able to provide all services needed for the project, the State will expect the chosen contractor to contact other contractors on this list to negotiate subcontracts for these services before going elsewhere. Exceptions to this strategy will be evaluated on a case-by-case basis.

12.11 Subcontractors, Project Budget and Invoicing. All subcontractors to be used in any project must be approved by the authorized entity initiating the project. Project budgets will be negotiated for each individual project contract. However, all rates, terms and conditions set forth in this term contract will be applied to individual contracts.

The State reserves the right to choose the invoicing method from the following:

- Prime contractor's billing will include the subcontractors charges and payment will be made to the prime, or
- Prime and subcontractors will bill the State separately and the State will pay each directly.

13. CONSIDERATION/PAYMENT

13.1 Payment Schedule. In consideration for the services to be provided, the State shall pay according to the negotiated agreement for each project. Hourly rates and miscellaneous charges as provided in Attachment B shall apply.

13.2 Withholding of Payment. The State may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

14. CONTRACTOR WITHHOLDING

Section 15-50-206, MCA, requires the state agency or department for whom a public works construction contract over \$5,000 is being performed, to withhold 1 percent of all payments and to transmit such monies to the Department of Revenue.

15. MONTANA PREVAILING WAGE REQUIREMENTS

Unless superseded by federal law, Montana law requires that contractors and subcontractors give preference to the employment of Montana residents for any public works contract in excess of \$25,000 for construction or nonconstruction services in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Unless superseded by federal law, at least 50% of the workers of each contractor engaged in construction services must be performed by bona fide Montana residents. The Commissioner of the Montana Department of Labor and Industry has established the resident requirements in accordance with sections 18-2-403 and 18-2-409, MCA. Any and all questions concerning prevailing wage and Montana resident issues should be directed to the Montana Department of Labor and Industry.

In addition, unless superseded by federal law, all employees working on a public works contract shall be paid prevailing wage rates in accordance with sections 18-2-401 through 18-2-432, MCA, and all administrative rules adopted pursuant thereto. Montana law requires that all public works contracts, as defined in section 18-2-401, MCA, in which the total cost of the contract is in excess of \$25,000, contain a provision stating for each job classification the standard prevailing wage rate, including fringe benefits, travel, per diem, and zone pay that the contractors, subcontractors, and employers shall pay during the public works contract.

Furthermore, section 18-2-406, MCA, requires that all contractors, subcontractors, and employers who are performing work or providing services under a public works contract post in a prominent and accessible site on the project staging area or work area, no later than the first day of work and continuing for the entire duration of the contract, a legible statement of all wages and fringe benefits to be paid to the employees in compliance with section 18-2-423, MCA. Section 18-2-423, MCA, requires that employees receiving an hourly wage must be paid on a weekly basis.

Each contractor, subcontractor, and employer must maintain payroll records in a manner readily capable of being certified for submission under section 18-2-423, MCA, for not less than three years after the contractor's, subcontractor's, or employer's completion of work on the public works contract.

The nature of the work performed or services provided under this contract meets the statutory definition of a "public works contract" under section 18-2-401(11)(a), MCA, and falls under the category of Heavy Construction and Nonconstruction services. The booklets containing Montana's 2003 Rates for Heavy Construction and Nonconstruction Services are attached.

16. ACCESS AND RETENTION OF RECORDS

16.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Mont. Code Ann. § 18-1-118.)

16.2 Retention Period. The Contractor agrees to create and retain records supporting the environmental services for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation or exception relating to this contract taken by the State of Montana or a third party.

17. ASSIGNMENT, TRANSFER AND SUBCONTRACTING

The Contractor shall not assign, transfer or subcontract any portion of this contract without the express written consent of the State. (Mont. Code Ann. § 18-4-141.) The Contractor shall be responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

18. HOLD HARMLESS/INDEMNIFICATION

The Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

19. REQUIRED INSURANCE

19.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

19.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

19.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors.

19.4 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations; premises owned, leased, occupied, or used.

19.5 Specific Requirements for Automobile Liability. The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns or subcontractors.

19.6 Additional Insured Status. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

19.7 Specific Requirements for Professional Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the Contractor or its officers, agents, representatives, assigns or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

19.8 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

19.9 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, PO Box 200135, Helena MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

20. COMPLIANCE WITH THE WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-120, 39-71-401, and 39-71-405, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, PO Box 200135, Helena MT 59620-0135, upon expiration.

21. COMPLIANCE WITH LAWS

The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

22. INTELLECTUAL PROPERTY

All patent and other legal rights in or to inventions created in whole or in part under this contract must be available to the State for royalty-free and nonexclusive licensing. Both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and authorize others to use, copyrightable property created under this contract.

23. PATENT AND COPYRIGHT PROTECTION

23.1 Third Party Claim. In the event of any claim by any third party against the State that the products furnished under this contract infringe upon or violate any patent or copyright, the State shall promptly notify Contractor. Contractor shall defend such claim, in the State's name or its own name, as appropriate, but at Contractor's expense. Contractor will indemnify the State against all costs, damages and attorney's fees that accrue as a result of such claim. If the State reasonably concludes that its interests are not being properly protected, or if principles of governmental or public law are involved, it may enter any action.

23.2 Product Subject of Claim. If any product furnished is likely to or does become the subject of a claim of infringement of a patent or copyright, then Contractor may, at its option, procure for the State the right to continue using the alleged infringing product, or modify the product so that it becomes non-infringing. If none of the above options can be accomplished, or if the use of such product by the State shall be prevented by injunction, the State will determine if the Contract has been breached.

24. CONTRACT TERMINATION

24.1 Termination for Cause. The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform this contract.

24.2 Reduction of Funding. The State, at its sole discretion, may terminate or reduce the scope of this contract if available funding is reduced for any reason. (See Mont. Code Ann. § 18-4-313(3).)

25. STATE PERSONNEL

25.1 State Contract Manager. The State Contract Manager identified below is the State's single point of contact and will perform all contract management pursuant to section 2-17-512, MCA, on behalf of the State. Written notices, requests, complaints or any other issues regarding the contract should be directed to the State Contract Manager.

The State Contract Manager for this contract is:

Robert Oliver, Contracts Officer
Room 165 Mitchell Building
125 North Roberts
PO Box 200135
Helena MT 59620-0135
Telephone #: (406) 444-0110
Fax #: (406) 444-2529
E-mail: roliver@mt.gov

25.2 State Project Manager. Each using State agency or Cooperative Purchaser will identify a Project Manager in the project task order. The Project Manager will manage the day-to-day project activities on behalf of the State/Cooperative Purchaser.

26. CONTRACTOR PERSONNEL

26.1 Change Of Staffing. Since qualifications of personnel was key in determining which offerors were selected to be on this term contract list, a written notification to the State Procurement Bureau of any changes of key personnel must be made within two weeks of the change. These change notifications will be completed upon the departure or hiring of key personnel who are professional employees critical to awarded service areas. If these staffing changes cause the firm to no longer meet the qualifications stated herein, that firm will be removed from the service area of this term contract. Failure to notify the State Procurement Bureau of staffing changes could result in the contractor being removed from the term contract listing and possible suspension from bidding on other State projects.

26.2 Contractor Contract Manager. The Contractor Contract Manager identified below will be the single point of contact to the State Contract Manager and will assume responsibility for the coordination of all contract issues under this contract. The Contractor Contract Manager will meet with the State Contract Manager and/or others necessary to resolve any conflicts, disagreements, or other contract issues.

The Contractor Contract Manager for this contract is:

Paul Druyvestein
3203 Russell St
Missoula MT 59801
Telephone #: (406) 721-4320
Fax #: (406) 549-6371
E-mail: pauld@djanda.com

26.3 Contractor Project Manager. The Contractor Project Manager identified below will manage the day-to-day project activities on behalf of the Contractor:

The Contractor Project Manager for this contract is:

Paul Druyvestein
3203 Russell St
Missoula MT 59801
Telephone #: (406) 721-4320
Fax #: (406) 549-6371
E-mail: pauld@djanda.com

27. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

28. CONTRACTOR PERFORMANCE ASSESSMENTS

The State may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

29. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract. If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

30. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana and each party shall pay its own costs and attorney fees. (See Mont. Code Ann. § 18-1-401.)

31. SCOPE, AMENDMENT AND INTERPRETATION

31.1 Contract. This contract consists of 11 numbered pages, any Attachments as required, RFP # SPB05-894P, as amended and the Contractor's RFP response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

31.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

32. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**DEPARTMENT OF ADMINISTRATION
STATE PROCUREMENT BUREAU
PO BOX 200135
HELENA MT 59620-0135**

**DJ&A, P.C.
3203 RUSSELL ST.
MISSOULA MT 59801
FEDERAL ID # 81-0524186**

BY: _____
Penny Moon, Contracts Officer

BY: _____
(Name/Title)

BY: _____
(Signature)

BY: _____
(Signature)

DATE: _____

DATE: _____

ATTACHMENT A CONTRACTOR'S RESPONSE

SECTION 3: SCOPE OF PROJECT

3.5 SERVICE CATEGORIES: Service Category Matrix included as **Appendix C**.

3.5.10 Geographic Information Systems (GIS) Services. *The State, and in particular DEQ, will need assessments that characterize a watershed and identify and quantify all probable sources of pollutants. GIS maps will be required for every waterbody that is assessed. Thematic maps may include, but are not limited to: land ownership, land use, topography, hydrology, soils, precipitation, and/or endangered species distribution. In addition, DEQ may request that GIS applications be used to facilitate the interpretation and analysis of digital images and/or other georeferenced data.*

SECTION 4: OFFEROR QUALIFICATIONS

4.1.2 Company Profile and Experience. DJ&A, P.C. has been providing quality civil engineering, surveying and mapping services since 1973. We employ a qualified and experienced staff of people to include nine professional engineers, four registered land surveyors, engineering technicians, engineers-in-training, surveyors, CADD operators, GIS analysts, graphic design and administrative personnel. Over the years our staff has continued to grow and is now comprised of a staff of 35 employees.

Our engineers are registered in numerous states including MT, ID, AK, WA, ND, SD, WY, OR, CO, IL, NE, CA and NV. Our surveyors hold registrations in MT, ND, SD, ID, WA and OR. We have survey crews that are Hazardous Waste Operations (HAZWOPER) site safety trained and certified in accordance with OSHA requirements should the need arise for hazardous waste site work.

As a consulting civil engineering firm, DJ&A is experienced in municipal and private water, sewer and irrigation systems; subdivisions; site planning and development; highways, roads, dams and bridges; surveying and mapping; and infrastructure redesign and redevelopment. Over the years we have been pleased to provide engineering and surveying services to many institutions, municipalities and agencies both Federal and State and have developed the reputation for being thorough yet cost effective and timely.

DJ&A uses numerous Computer Assisted Design and Drafting (CADD) packages as appropriate to the project including the latest releases of AutoCAD, Intergraph MicroStation and GEOPAK Civil Design Software. We are also experienced in computerized Geographic Information Systems (GIS) and have a full range of electronic data processing (EDP) capabilities including full size color plotting, mapping, graphics and desk top publishing.

DJ&A has owned and operated survey grade GPS equipment since 1993. We are capable of completing GPS projects in static, rapid static and real time kinematic (RTK) modes. Our GPS experience has allowed us to provide our clients with the benefits of this highly accurate and very productive, efficient and cost effective state-of-the-art surveying technology.

DJ&A, P.C. continually promotes and supports the continuing education of our staff. Engineering and surveying competency is maintained with on-going study, outside training sessions and attendance at professional society meetings. Key personnel will devote time, as required, to insure competent work is completed for each project assigned.

DJ&A, P.C. was awarded the National Society of Professional Engineers (NSPE) national **Private Practice Professional Development** Award for 1998. In addition, in March 2002, DJ&A was given a **National Recognition Award** from the American Council of Engineering Companies for our surveying, mapping and GIS data base development at the Anaconda Superfund site. We also won a "Poster Award" in the 2002 Intermountain GIS Conference Professional Category. (Please see Appendix E for a sample of this award.)

DJ&A is classified as a Small Business Enterprise, (SB or SBE) for federal contracting purposes. Resumes summarizing qualifications, work experience, education, skills, etc. for all of our key personnel are

provided in Section 4.1.4.

4.1.3 Method of Providing Services & Quality Assurance.

Introduction: Geographic Information System (GIS) services were provided to the Atlantic Richfield Company Environmental Group located in Butte, Montana. The purpose of this project was to develop and maintain a Geographic Information System (GIS) database to aid in the remedial action efforts for the Anaconda Regional Water, Waste & Soils (ARWW&S) Operable Unit in Anaconda, Montana, which is part of the Upper Clark Fork River Superfund Site. The project area encompasses approximately 300 sq. miles of impacted lands from past smelting operations in and around the city of Anaconda, Montana. The landscape includes flat rangeland, rolling hills and steep, mountainous terrain. Land uses include agricultural, residential, commercial, recreational, conservation, and waste management areas.

This work began in the spring of 1998 and DJ&A, P.C. is currently supporting Atlantic Richfield Company with maintenance/development of environmental geodatabases that contain ground water, surface water and soils analytical data, thematic map layers of land ownership, land use, noxious weed control, and planimetric features; and design data including land reclamation designs and storm water engineered controls.

I. Primary Hardware & Software used for providing Services

- A. Software: While most of the day-to-day tasks involved with this project utilize ESRI GIS products, a variety of software programs are used by our staff to create, manipulate, query, model and present data in a precise and timely manner. These software platforms include ArcGIS 8.2, ArcView 3.2, AutoCAD Map 2i, AutoCAD Land Development 2i, MS Access, MS Excel, MS Word, and a host of Trimble GPS software.
- B. Hardware: Computer hardware and peripherals include Pentium 4 computers, HP 1050C plotter, HP 1120C DeskJet Laser printer and Trimble GPS. A complete list of our in-house equipment is included with this proposal.

A complete list of our in-house supporting resources is enclosed as Appendix F.

II. Project Implementation

Initial GIS support started with developing a high-resolution color ortho corrected aerial photo base map and a topographic model of the project area landscape. This was accomplished by setting ground control targets and locating each target with high precision GPS ($\pm 0.2'$) for both horizontal and vertical position. The aerial mapping was then used to develop 2' contour lines along drainages within "lowland" areas while 10' contours were developed for the entire geographic extent of the project area. The digital elevation model (DEM) developed from the survey and aerial mapping was imported into AutoCAD Land Development software where a triangulated irregular network (TIN) was created. Digital contour lines were derived from the TIN. The contour lines were then exported to an ArcView *shapefile* format.

Compilation of existing digital datasets ensued. This included gathering surface and ground water quality data from the Clark Fork Data Management System (CFDMS) and USGS, soils analytical data from remedial investigations and feasibility studies, land ownership data from the Montana State Cadastral web site, planimetric features from ground surveys and aerial base map, and political boundaries from various sources. These data sets were received in a variety of formats including geodatabase, MS Access, MS Excel, AutoCAD *dwg*, ArcView *shapefile* and ArcInfo *export* (e00) files. Using a variety of methods and tools (see Section IV for list of software), these datasets were converted, projected and imported into an appropriate geodatabase or *shapefile*.

DJ&A's initial spatial and analytical analysis of existing data identified large data gaps both geographically and from a timetable perspective (i.e. depth to water data). The next phase of the project was to fill these data gaps through an extensive surveying and sampling effort. DJ&A supported the sampling efforts by locating all monitoring wells, various domestic wells, piezometers, staff gages, and irrigation control structures using GPS. New soil sample locations were pre-defined using ArcView

GIS to analyze land use, land ownership, existing data results, terrain, and sample point distribution. The predefined sample location coordinate were uploaded into a GPS controller, located on the ground, and staked. Thematic site maps depicting the locations of ground/surface water features and soil sample points were prepared using ArcView and Arc Map GIS. After quality control measures were implemented, the analytical results from sampling were imported into a geodatabase using ArcGIS software.

In addition to environmental data gathering, various thematic map layers were created by digitizing features from the ortho-rectified aerial photographs and hard copy maps. These included planimetric features (roads, hydrologic features and RR tracks), weed spray boundaries and land use boundaries. Drainage basin boundaries were created using ArcView 3D Analyst extension to create hill shades and slope aspect from the contour lines. Remedial design polygons were derived by modeling trends in heavy metal concentrations from soil, ground water and surface water sampling.

III. Deliverables

Deliverables came in the form of GIS database management, thematic map generation, data summary reports and data documentation (metadata). Throughout the superfund process, multiple documents were prepared to identify the problem, create and justify a remedy, implement the remedy and finally monitor the remedial action. Our GIS services were utilized to support all phases of this project from compiling existing data to capturing and creating new data. Numerous thematic maps were created using ArcView and ArcMap and datasets were queried and analyzed to best interpret environmental conditions across the project area.

IV. Quality Assurance

Managing data input for quality control was a critical component to data validation. Many different types of data have been input into the GIS including spatial, analytical and image data. A schematic diagram illustrating the major steps of data input into the GIS is shown on Figure 1. With such a large amount of data being input into the GIS, certain data validation rules were established. Before newly acquired data could be entered into the GIS, each data provider was responsible for complying with applicable portions of site specific Data Management Plans (DMP), Standard Operating Procedures (SOP), or Sampling and Analysis Plans (SAP).

All data validation involved a review of the significant characteristics of any data set submitted to DJ&A for submission into the GIS database. This included, at a minimum, the following:

- Identity DMP, SOP and/or SAP associated with the data (source of data).
- Identify coordinates and projection/datum or known station numbers for data submitted, and
- Name, address and phone number of data collector/submitter

If these data characteristics were not confirmed with the dataset, the data was not validated. In this case, DJ&A notified the provide of the required information and that the data cannot be entered into the GIS until the appropriate information above was provided. An Input Activity logbook was kept and contains a copy of the "Data Input Form". The Input Activity Log Book included the following:

- Date work product was delivered to DJ&A, P.C.
- Name (revision, if applicable) of electronic file of work product
- Form of work product, (paper or electronic)
- Name and location of data provider

Metadata (information about data) was also collected to document the source, evolution and content of each dataset. Metadata instituted the FGDC standards for metadata collection and included the following parameters:

TYPE OF INFORMATION	METADATA PARAMETERS
Description	<ul style="list-style-type: none"> • Abstract; • Purpose
Publication Information	<ul style="list-style-type: none"> • Originator; • Publication Date (format: YYYYMMDD); and • Publication Title
Contact Information	<ul style="list-style-type: none"> • Contact Person (name of individual to contact about data set; • Contact Organization; •• Street/Mailing Address; Contact Voice Telephone; Contact Facsimile Telephone; and • Contact Electronic Mail Address
Attribute Information	<ul style="list-style-type: none"> • Field Name; • Field Name Description
Spatial Reference Information	<ul style="list-style-type: none"> • Horizontal Coordinate System Identification; • Vertical Coordinate System (Datum) Identification; and • Projection

4.1.4 Staff Qualifications.

NAME	DEGREE	YRS OF EXPERIENCE	YRS OF EXPERIENCE ON SIMILAR PROJECTS	SPECIALTY TRAINING	REGISTRATION
Paul Druyvestein	B.S. Civil Engineering	12	12		P.E. - MT, WY, OR
Vaughn Anderson	B.S. Civil Engineering	26	26		P.E. - MT, ID, AK, WA, ND
Mike McLeod	B.S. Geography	10	10	Training in ESRI products and AutoCAD classes	N/A
Greg Smith	B.A. Elementary Education	6	2	GIS ArcView Classes 2001 & 2002	N/A
Glenn Howard		31	31		P.L.S. - MT, ND, SD
Mark Lehman		28	28	Various AutoCAD classes	N/A

Supporting Resources

Surveying Equipment

- 1 - Trimble 5600 Robotic Total Station with +200 meter reflectorless distance measuring capabilities
- 3- Trimble 4700 GPS Receiver
- 1- Trimble ProXRS 12 channel
- 3- Trimble, 4400 M GPS Receiver
- Leica TC1800A - Total Station
- Leica TC1800 - Total Station
- 2- Wild TC 1000 Total Station
- Leica NA2002 - Electronic Digital Level with automated data collection and processing capabilities.
- 2- Garmin GPS 12XL Hand Held

GPS Software

GPSurvey
TRIMAP
Trimble GPLoad
Trimble Survey Office
TRIMNET Plus
TRIMBLE Geomatics Office
WildSoft

Survey Software

TDS Survey Link DC
WILD
CollFix
GIFCON
OMNI
CIP
RDEV
SOFTREE
LACES

SMI

Civil Tools
GEOPAK 2000
SKI
ALL TOPO MAPS
Pathfinders Office
Corpscon for Windows
Leica Levelpak
WINGMM

Transportation

8 Inspection and Survey Trucks
2 All Terrain vehicles
2 boats
(Including a 14' river jet boat)

Civil/Drafting Design

Software

Autodesk Survey 2i
Autodesk CAD Overlay 2i
Autodesk Civil Design 2i
Bentley-MicroStation SE and J
GEOPAK 2000
WATERCAD
Civil Tools

Bridge/Structural Design

Software

GEO Library
Visual Analysis 4
HECRAS
PC BRIDGE
VISUAL URBAN
HY8
SUMMAGRAPHICS

WATERCAD
CAESAR
ImageSTATION

GIS Software

ESRI ArcGis 8.2
ESRI ArcView 3.2
Autodesk LandDevelopment
Desktop 2i

Office Software

Operating Systems -
Windows 98/NT/2000
Microsoft Word 2000
Microsoft Access
Microsoft Excel 2000
Microsoft FrontPage
Microsoft Power Point
Microsoft Expedia
Microsoft Project
Microsoft Outlook
Microsoft Internet
Norton Antivirus
PKZIP
Adobe Acrobat
World Mail
Word Perfect 9/10/11

Specialized Software - Accounting, Graphics

Adobe PhotoShop 6
Adobe PageMaker
GFS.98
WIND2
Crystal Reports

Nuclear Density Gauges

2- Troxler Model 3440

Office Support Equipment

Computer Network with 25 Workstations on 3 network servers. Three laptop computers for use in the field as well as for portable Power Point presentations, digital camera and removable data reader, 5 color inkjet printers, 4 laser printers, 1 Design Jet 1050C Plotter, Dart XL300 BlueLine machine, Microfiche Reader, 2 copiers and a continuous feed dot matrix printer; e-mail capabilities at all workstations,

Safety Program

DJ&A field employees participate in a regular safety program which consists of topical meetings, refresher courses in first aid and CPR as well as the 40 hour HAZWOPER training plus 8 hour annual refresher course needed to work on hazardous waste and Superfund sites.

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